

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

**M e m o r a n d u m**

**Date:** May 14, 2002

**To:** The Commission  
(Meeting of May 16, 2002)

**From:** Bill Julian  
Office of Governmental Affairs (OGA) — Sacramento

**Subject: SB 1755 (Soto)** – This bill authorizes municipal water districts and county water districts to acquire facilities for the production and distribution of electricity to be used “by the district for its own purposes or [by] any public or private entity that is engaged in the distribution or sale of electricity.”

**As Amended April 30, 2002**

**Recommendation:** Oppose unless amended.

**Summary:** This bill:

1. Authorizes municipal water districts and county water districts to acquire facilities for the production and distribution of electricity to be used “by the district for its own purposes or [by] any public or private entity that is engaged in the distribution or sale of electricity.”
2. Requires that any “departing load” be subject to “a surcharge, exit fee or other charge... if [such] charges are established by the Public Utilities Commission for self generation customers.”

**Analysis:** This bill expands the category of public entities that are authorized by their organic statutes to provide electric service. Currently irrigation districts, municipal utility districts, municipalities and certain special districts are authorized to provide electric service.

Although the bill prohibits a district acquiring or operating facilities under its provisions from providing electric service at retail (to enduse customers), it permits sale or lease of its facilities to public or private entities that do sell at retail. Thus anticipates scenarios

where the subject districts could lease or joint venture with retail entities providing electric service to endusers.

**Comments:** The bill appears to anticipate that the water districts venture into electric service will result in loss of load by incumbent utilities currently providing retail service. The limitation on exit fees or surcharges to the same regime adopted for self generation (self gen) is unnecessarily restrictive and could jeopardize recovery of state energy bond cost, Department of Water Resources' charges as well as utility stranded cost.

It would be appropriate to apply a consistent approach to all forms of self gen, including self gen by the subject water districts, but the legislative language that applies to self gen regime to all utility load loss to a water district provider creates a preference for the retail customers of "private or public" entities leasing or operating the water district facilities. The Commission has historically exempt some forms of self gen from Competition and Transition Charge (CTC) recovery and AB 1890 is ambiguous on the application of the nonbypassable charge for recovery of stranded cost to self gen scenarios.

This bill should be amended to provide for consistent treatment for water district loads served by water district resources and eliminating preferential treatment for any other customer that takes service from the water district or its public or private partner.

**Contact:** Bill Julian, Director [bj2@cpuc.ca.gov](mailto:bj2@cpuc.ca.gov)  
CPUC- OGA (916) 327-3277

**Date:** May 14, 2002

BJ:nas

Attachment

## BILL LANGUAGE

BILL NUMBER: SB 1755    AMENDED  
BILL TEXT

AMENDED IN SENATE    APRIL 30, 2002

INTRODUCED BY    Senator Soto  
    (Principal coauthor: Assembly Member Negrete McLeod)  
    (Coauthors: Senators Costa and Vincent)  
    (Coauthors: Assembly Members Calderon, Correa, Frommer, and Oropeza)

FEBRUARY 21, 2002

An act to add Sections 31149.7 and 71663.5 to the Water Code, relating to electric power.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1755, as amended, Soto. County water districts and municipal water districts: electric power.

The County Water District Law and the Municipal Water District Law of 1911 grant to county water districts and municipal water districts, respectively, prescribed powers relating to water and other services.

This bill would authorize those districts to provide, generate, and deliver electric power, and to construct, operate, and maintain works, facilities, improvements, and property for that generation and delivery. The bill would prohibit those districts from acquiring property employed in the generation or delivery of electric power, except by mutual agreement between the district and the property owner.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 31149.7 is added to the Water Code, to read:

31149.7. (a) A district may provide, generate, and deliver electric power, and may construct, operate, and maintain any and all works, facilities, improvements, and property, or portion thereof, necessary or convenient for that generation and delivery.

(b) The electric powerplant or plants and transmission lines constructed pursuant to this section may be leased for operation, or the power generated may be used, by the district for its own purposes or be sold to any public or private entity that is engaged in the distribution or sale of electricity.

(c) Nothing in this section grants to a district the authority to provide, sell, or deliver electric power at retail.

(d) A district may not acquire property employed in the generation or delivery of electric power for public or private utility purposes, except by mutual agreement between the district and the owner of that property.

(e) *The electricity load that departs from an electrical corporation pursuant to subdivision (b), shall be subject to a*

*surcharge, exit fees or other charges related to energy procurement, if a surcharge, exit fees or other charges are established by the Public Utilities Commission for self-generation customers.*

SEC. 2. Section 71663.5 is added to the Water Code, to read:

71663.5. (a) A district may provide, generate, and deliver electric power, and may construct, operate, and maintain any and all works, facilities, improvements, and property, or portion thereof, necessary or convenient for that generation and delivery.

(b) The electric powerplant or plants and transmission lines constructed pursuant to this section may be leased for operation, or the power generated may be used, by the district for its own purposes or be sold to any public or private entity that is engaged in the distribution or sale of electricity.

(c) Nothing in this section grants to a district the authority to provide, sell, or deliver electric power at retail.

(d) A district may not acquire property employed in the generation or delivery of electric power for public or private utility purposes, except by mutual agreement between the district and the owner of that property.

(e) *The electricity load that departs from an electrical corporation pursuant to subdivision (b), shall be subject to a surcharge, exit fees or other charges related to energy procurement, if a surcharge, exit fees or other charges are established by the Public Utilities Commission for self-generation customers.*